

Aleksei Kurgvel, E.C. No 256388

Munich,
13 November, 1951

To:
Mr. Sidney B. Rawitz,
Acting Assistant Commissioner,
and
Mr. Almanza Tripp,
Officer in Charge,
U.S. Immigration and Naturalization Service,
Munich, Funk Kaserne.

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Ref: Board of Special Inquiry File No 467-2573 and my letters of 5 Sept.

In view of the fact that your kind advice, which brought me to the filing of the above letters and to the second hearing of my case before the BSI on 7 September, has brought no possibility for my family's immigration to the United States, as was presumed, I hereby request that my abovementioned letter of 5 Sept., concerning the withdrawal of my appeal from the excluding decision of the Board of Special Inquiry convened at Wentorf on July 31, 1951, be disregarded, and my appeal be given the quickest possible consideration.

Simultaneously I herewith ask, in addition to my above request, to be allowed to file an appeal from the excluding decision of the Board of Special Inquiry convened on 7 September, 1951 in Munich. I did not file an appeal from this decision immediately after the hearing of the BSI because I believed that this decision would give a real possibility for the immigration of my family as DPs and of myself under the provisions of Sect. 3(c) of the DP Act, as I was advised. Now, over 2 months from that time, I must constate that this advice was incorrect and therefore I must ask for permission to file my appeal now.

I know that the INS and the BSI have to defend the American interests and to respect the American laws and the corresponding international agreements. I do the same, and therefore I opened my full secret activity report to the American Authorities.

I find that the corresponding American laws and international agreements are on my side and allow my immigration to the United States under the provisions of the DP Act, as amended. Many American Authorities and members of the INS have found the same. I have no right to think that these Authorities had come to their approving decision by lack of knowledge of, and/or lack of respect for, these laws and agreements. Therefore I must suppose that an error has happened somewhere in my immigration case.

This is not only for my and my family's immigration; it is also for the restoration of my soldier's honor, that I must ask for the reopening and reconsideration of this case.

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CENTRAL INTELLIGENCE AGENCY
SOURCE METHOD EXEMPTION 3828
NAZI WAR CRIMES DISCLOSURE ACT
DATE 2006

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To enlighten the case and to facilitate the review I repeat:
I find the decision of the BSI of 31 July 1951 and that of 7 September 1951, as far as these concern me, being erroneous, because:

- 1) I have never been a member of, and I have never participated in, the German Nazi Party as was found by the BSI;
- 2) My working in contact with the German Army during world war II can not be taken as "being a member" or having "participated in a movement which has been hostile to the United States or form of government of the United States", because:
 - a) an ARMY is not a MOVEMENT, as is clearly seen from the relationship of points (d) and (f) of Section 702.8 of the Regulations of the Displaced Persons Commission, Washington, D. C., as revised in connection with the amendment of the DP Act of 1948;
 - b) nor can the special part of the German Army with which I worked, the Intelligence Service, be taken for an undertaking of the Nazi Party. Its far distance from that Party was witnessed by the facts:
 - that its chief, Admiral Canaris, was sentenced and hanged by the Nazi politicians;
 - that after the formal annexation by the Party on the highest level of this Service there was no change in the old correct line of work in the unit with which I worked ("Frontaufklärungskommando 166 M"); we received our orders not from the new political head of the Service, but directly from the G.H.Q. of the Navy on the Eastern Front (MOK Ost), and the technical instructions from the old leader of the Wehrmacht Intelligence Service on the Eastern Front;
 - that besides the mentioned Service of the Wehrmacht there existed a parallel Intelligence Service of the Nazi Party, called "SS Jagd Verbände", whose proposal for collaboration I refused in December 1944/January 1945, because this organization, as I understood, did not intend to work in a way acceptable to the independent Estonia and to the suffering Estonian people;
 - c) I have not borne arms against the United States or its Allies on the Western Front. I have borne arms only against the communist USSR on the Eastern Front. These acts have been clearly separated from each other in the DP Act, as amended, as explained in the aforementioned Regulations of the DP Commission /Sect. 702.8 (f)/.
- 3) I understand that the decision of my ineligibility was made by the BSI on the basis that my concealment of facts before the IRO "appears to be pertinent and may possibly have been a reason for disqualification" (Findings of Facts, point 16).
This finding of the BSI could prove to be true only if the IRO were to be given my full secret activity report and if the IRO were to apply its old communist-influenced regulations for the eligibility officers, which are in strict contradiction to the intent of the DP Act, as amended.
But:
 - a) I am not entitled - and also not prepared - to report my full activity to the IRO, of which communist Russia is a member and, although no longer paying its share, in which its agents may still be;
 - b) I have reported my full activity to the American Authorities and none of them, the BSI included, has found, or has opened to

me that I am ineligible because of this activity itself.

- c) By granting me a second hearing on 7 September and by declaring my family to be admissible the BSI and the INS have showed that they are not bound by the inner regulations of the IRO eligibility officers according to which the eligibility of the family depends from the eligibility of the familyhead.

Since that is so, then the BSI and the INS are also not bound by the other sections of the old communist-influenced inner regulations of the IRO eligibility, according to which alone I could have been found ineligible.

- 4) The BSI could not ^{have} come to such a decision of my ineligibility if my full activity (anti-communist and anti-nazi as well), and its reasons, and the conditions in which I worked during that time, had been given due consideration in the light of the Constitution of the IRO, as such, and of the amendments made in Section 13 of the DP Act, by which not "fighting against the United NATIONS", but "against the United STATES" has been left in the DP Act as a ground for inadmissibility for soldiers of World War II.

- 5) In June/July 1940 I stood between two alternatives:

- whether to accept the proposal of the Russian communists to enter as a spy their Secret Service, to betray my Estonian comrades and the foreign Military Attaches accredited and still living in or visiting Estonia, among them the Military Attaches of the United States and of the United Kingdom, thus to forget my oath and my officer's honor, or -
- to try to escape from the sure death which awaited me when refusing the Russian proposal, to try to go on doing my duty as an honest officer of the Estonian Army, using the single help available at that time, that of the German Wehrmacht.

I did not want to betray either my Estonian comrades and my work, or the western Military Attaches who represented the traditional and honored real allies of the Estonian people and Republic, and who, at that time, were not Allies of communist Russia, on the contrary, who were on very bad terms with Russia just because of the willful occupation of the Baltic States by the Russians.

I choose to remain a honest Estonian soldier. Must I be punished therefore now by the excluding decision of the BSI, although the Constitution of the IRO allows an other, approving, decision?

- 6) If the BSI and the INS are obliged to consider the law and the international agreements to the letter, then too, I find that I am eligible under the regulations of the IRO Constitution, namely:
- a) if the BSI and the INS find that I have "assisted the enemy forces ... against the United Nations" as foreseen in point 2(b) of Part II of that Constitution, then this assistance can not be found to have been "voluntarily", because:
- I was a professional commissioned officer in active service, bound by my oath of allegiance to the Estonian Republic;
 - I have never been freed from this oath by my superiors;
 - there does not exist any act of law by which this my oath had been abolished; the willful demolition of the Estonian Republic and the incorporation of the Estonian Soviet-Republic into the USSR have been recognized neither by the Estonian People nor by the United States; nor could I take these acts for abolition of my oath, and thus -
 - I was OBLIGED to carry on doing my duty: "to remain faithful to the democratic Estonian Republic, to defend the Estonian

Republic against its enemies, using all my wits and strength" (quoted from the Estonian soldier's oath of allegiance). I did OBEY this highest order contained in my oath; I had no strength of my own enabling me to continue my duties; my wits did not show me any other possibility to get some help than by accepting the German offer (in July 1940 the Finns were unable to help me against the Russian communists). Thus -

- the situation FORCED me to join the Germans, this was not a "voluntary" decision of mine to "help the enemies of the United Nations".
- b) I did not change my field of activity: being employed with the Intelligence Service of the Estonian Army since January 1934, and having worked for the defense of Estonia against both its possible enemies, communist Russia and nazi Germany, in due contact with the Western Democratic Powers, as was the policy of the Estonian Republic, I continued the same work through all the time, in the same direction.
- c) My work of peace time was a really "peaceful" one: collecting information about the possible enemies of our Republic, so we would be able to defend ourselves with the least possible casualties. The aim of my activity remained the same during all the war time. I have fired not a single shot against an enemy, and it was, in principle even, forbidden to my men to do any fighting or acts of violence, their single task being gathering of information, as far as my work against the communists is concerned.
- d) My work against the nazis was a political one, aimed to the restoration of the independent Estonian Republic. This was in strict contradiction to the aims of nazi politics. I would never have fought these nazi politics had I had any intention to help the Germans, the enemies of the United Nations: I simply used German help for my work against the murdering communists, because I needed this help.
- e) It would be an error of an institution which has to take a law to the letter if only one part of a law or of a section of law will be considered. Therefore, when asessing my activity with the prescriptions of the aforementioned point 2(b) of Part II of the Constitution of the IRO, the very essential remark to this same point 2 (b) has to be taken into consideration too. And this, as shown above under points (a) to (d), is the correct measure of my war time activity, namely:
 - my activity constitutes a "mere continuation of (my) normal peaceful activity" as an officer of the Estonian Army in active service,
 - which I did with no "specific purpose of aiding the enemy against the Allies", but to help free Estonia,
 - which activity "shall not be considered to constitute "voluntary assistance", which last would have been a reason for disqualification.

When I commenced my activity against Russia, she was not one of the Allies. Naturally I could not cease this activity when she did become one, because she did not change her attitude against Estonia, she remained the worst enemy of Estonia.

Aleksei Kurgvel.

München, den 13. Nov. 1951.

Verehrter Freund!

Da ich selbst verreisen muss, wäre ich Ihnen sehr dankbar wenn Sie die beigefügten zwei Exemplare meines Schreibens vom heutigen Datum, adressiert an die INS München, möglichst schnell ~~und~~ möglichst gut weiter leiten möchten.

Vielleicht könnte man von einem zuständigen Herrn in der INS eine Quittung nehmen, damit ich für später einen Beweis habe, dass ich diese Schreiben wirklich eingereicht habe und damit das Recht habe darauf eine Aktion der INS zu erwarten.

Mit bestem Dank voraus

H. K. P.
P. Das dritte Exemplar ist für Sie gemeint. J. P.